

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	19cr463-7 (DLC)
	:	21cr192 (DLC)
-v-	:	
	:	<u>ORDER</u>
DAVID MALEH,	:	
	:	
Defendant.	:	
	:	
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DENISE COTE, District Judge:

On June 25, 2021, David Maleh ("Defendant") was sentenced principally to a term of imprisonment of 123 months in 19cr463 and 21cr192 following his plea of guilty to charges relating to Conspiracy to Commit Money Laundering and Conspiracy to Structure Transactions to Evade Reporting Requirements, in violation of 18 U.S.C. §§ 1956(h) and 371. Defendant's sentencing guideline range was 135-168 months' imprisonment, based on an offense level of 33 and a criminal history category of I. The plea was pursuant to a plea agreement with the Government that waived Defendant's right to collaterally challenge or appeal any sentence less than 168 months in prison. Defendant's sentence fell below his sentencing guidelines range. The Bureau of Prisons currently projects that the Defendant will be released from prison on May 13, 2029.

Effective November 1, 2023, in its Amendment 821, the United States Sentencing Commission ("Sentencing Commission")

amended the United States Sentencing Guidelines Manual in two respects. Part A amends Guidelines § 4A1.1, by reducing from two (2) points to one (1) point the upward adjustment for offenders who committed the instant offense while under any criminal sentence, and by limiting this adjustment to defendants who received seven (7) or more criminal history points. Part B, in the part relevant here, amends Guidelines § 4C1.1, by providing a 2-level offense level reduction for offenders with zero (0) criminal history points who meet specified eligibility criteria. The Sentencing Commission made these amendments retroactive effective November 1, 2023. Defendants whose requests are granted by the courts can be released from prison no earlier than February 1, 2024.

Defendant has made a pro se motion for reduction in his sentence dated November 14, 2023 (Docket Entry No. 365). The Probation Department has issued a report indicating Defendant may be eligible for a reduction. For defendants who have not provided substantial assistance to the Government, Amendment 821 does not allow the reduction of a sentence to a term less than the minimum of the amended guideline range. A two-level offense level reduction of the Defendant's sentencing guidelines calculation would result in an amended sentencing guideline range of 108-135 months imprisonment. The sentence imposed on Defendant is within the amended sentencing guideline range.

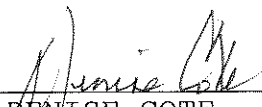
Pursuant to the standing order of the Chief Judge of this District, CJA Counsel David Stern has been appointed to represent the Defendant in this Court's consideration of whether the Defendant's sentence should be modified in light of Amendment 821. It is hereby

ORDERED that no later than December 22, 2023, the Government shall file a statement of its position on the motion for modification of the Defendant's sentence.

IT IS FURTHER ORDERED that the Defendant shall file his response, if any, no later than January 19, 2024.

The Court's intention, unless it orders otherwise, is to resolve this motion based on the parties' written submissions.

Dated: New York, New York
November 29, 2023



DENISE COTE
United States District Judge